

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FEDERAL TRADE COMMISSION <i>et al.</i> ,)	
Plaintiffs – Appellees,)	Appeal No. 24-3835
)	
v.)	
)	D.C. No. 2:23-cv-01495-JHC
AMAZON.COM, INC.,)	(W.D. Wash. at Seattle)
Defendant – Appellee,)	
)	
v.)	RENEWED MOTION BY
)	APPELLANT TO SUBMIT
AMERICAN BOOKSELLERS)	THIS APPEAL ON BRIEFS,
ASSOCIATION, INC.,)	WITHOUT ORAL ARGU-
Proposed Intervenor)	MENT
Movant – Appellant.)	
)	

Appellant, American Booksellers Association, Inc. (“ABA”), in response to the Court’s September 22, 2024 Notice of Oral Argument in this case (to be held on December 2, 2024 “[i]f the panel determines that it will hold oral argument” in this case), hereby respectfully moves pursuant to FRAP 34 and Circuit Rule 27-12 to submit this appeal on briefs, without oral argument, in accord with ABA’s June 26, 2024 Motion to Expedite Resolution of This Appeal to Prevent It From Becoming Moot (Docket Entry No. 10) (“Motion to Expedite”).

Appellees did not object to ABA’s prior request to submit this appeal on the briefs, without oral argument, as part of ABA’s Motion to Expedite, which ABA pressed as its final point in ABA’s briefs on the merits of this appeal. Appellees

have thus not disputed that “the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument.” FRAP 34(a)(2)(C). Moreover, as set forth in its Motion to Expedite, ABA would be increasingly prejudiced by any unnecessary delay in the resolution of this appeal, to the point that this appeal could effectively become moot. For this reason, ABA has also requested in that Motion that the Court issue a decision on the merits of this appeal by this coming week, if feasible, by deferring if necessary a supporting opinion as this Court did in a similar case.¹

Respectfully submitted,

William D. Fisher, Esq.
Potomac Law Group, PLLC
1455 NW Leary Way, #400
Seattle, WA 98107
(206) 599-8888
wfisher@potomacclaw.com

s/ Timothy W. Bergin
Timothy W. Bergin, Esq.
Potomac Law Group, PLLC
1717 Pennsylvania Ave., NW, #1025
Washington, DC 20006
(703) 447-4032
tbergin@potomacclaw.com

Counsel for Proposed Intervenor, Movant - Appellant
American Booksellers Association, Inc.

¹ For the same reason, ABA has also requested that if the Panel reaches a decision on the merits in favor of ABA, the Panel should expedite issuance of its mandate in this case. *See* ABA’s Reply Brief, p. 21; Circuit Advisory Committee Note to Rule 41-1 (“in exceptional circumstances ... a panel [may] order the mandate to issue immediately upon the filing of a disposition”).